

APR 15 11
SFB

AGREEMENT

THIS AGREEMENT, made and entered by and between the **CITY OF ATLANTIC CITY**, a Municipal Corporation of the State of New Jersey, 1301 Bacharach Boulevard, Atlantic City, New Jersey 08401, hereinafter "**CITY**", and **PEARLMAN & MIRANDA, LLC.**, located at 2 Broad Street, Suite 510, Bloomfield, NJ 07003 (herein called "**Bond Counsel**").

WHEREAS, Bond Counsel (also meaning "Special Counsel" where the context allows) agrees to provide specialized legal services relating to the authorization and issuance of debt obligations and capital financing by the City and any and all entities subordinate thereto under the terms of this Contract;

WHEREAS, funds are or will be available for this purpose in accordance with specific authorizations for the issuance of obligations of the City.

NOW, THEREFORE, the parties hereto do agree as follows:

1. Bond Counsel agrees to provide the City with legal services with the consent of the signatories hereto, as it relates to the issuance of debt obligations and other matters of capital finance; said services to be limited to the following:

- (a) Legal consultation and advice at meetings as requested by the City, its Mayor, members of its governing body, Manager, Administrator, Attorneys, Chief Financial Officer or other authorized officers on their behalf, in connection with the authorization of capital expenditures and the issuance or sale of obligations.

- (b) Review of financial records and prior capital and bond ordinances or other prior actions of the City or officers of the City as same relate to the issuance of obligations or capital projects or expenditures.
 - (c) Preparation of written reports on matters relating to said ordinances or other Bond Counsel activities as requested by the City.
 - (d) Basic advice in regard to the effect of the federal arbitrage law and regulations on the issuance of bonds or bond anticipation notes, certificates of participation or similar obligations and the investment of the proceeds thereof.
 - (e) Legislative and policy making legal advice with reference to financing by the City.
 - (f) Resolution of lost and damaged securities problems.
 - (g) Any services reasonably provided by Bond Counsel in connection with the above detailed services.
2. The Contract shall be for a period of one year commencing April 15, 2017 for any extended period necessary to complete permanent financing for ongoing projects.
 3. For services performed by Bond Counsel for the City, the fees shall be as follows:
 - A. For services rendered in connection with each bond sale, a fee of \$3,500, plus \$.100 per thousand dollars of bonds issued for the first \$15,000.00 and \$.75 per thousand dollars of bonds issued in excess of \$15,000.00 not to exceed \$55,000.00.

If there is more than 1 series of bonds issued, there will be an additional charge of \$1,000 for each such additional series.

B. For services rendered in connection with the preparation or review of each bond ordinance and the compiling of a certified record of proceedings in connection therewith, a fee of \$600 for review and preparation.

C. For services rendered in connection with each note sale, a fee equal to the hourly rates reflected in paragraph (G), with a minimum fee of \$.50 per thousand dollars of notes issued up to \$15,000.00 of notes used and \$.40 per \$1,000 of notes in excess of \$15,000.00 not to exceed \$55,000.00. If more than one series of notes are issued, there will be an additional charge of \$500 for each such additional series.

D. For services rendered in connection with arbitrage compliance and related tax analysis, a fee of \$250.

E. In the event that a letter of credit, bond insurance, or similar credit enhancement facility is used in connection with either a bond or note issue, an additional fee of \$1,000 will be charged.

F. In the event of a refunding bond issue consistent with the provisions of the Internal Revenue Code to provide for the payment of a prior issue of bonds, there will be an additional fee of \$5,000 for each refunded issue.

G. Services rendered on an hourly basis, including preparation of an application to and an appearance before the Local Finance Board, attendance at meetings, litigation, continuing disclosure undertakings and preliminary and final official statement or other offering or disclosure work, will be billed at the blended hourly rate of \$215 per hour for attorneys and \$135 per hour for legal assistants.

"Services" as set forth herein, shall include the preparation of all ordinances and resolutions, participation in the preparation of Official Statements, attendance at Council meetings, closings and all other services necessary and incidental to said bond or note sales which will be inclusive as to the fees set forth in this paragraph 3.

4. Records and Billing. Bond Counsel shall submit to the City, itemized vouchers indicating the specifics of the work performed at the time obligations are issued or at such time as fees for other services or other reimbursements become due. Bond Counsel agrees to submit monthly billing as requested by the Manager, Administrator, Chief Financial Officer or other appropriate representative of the City.

5. Cost of Action. Specifically excluded is mileage, travel, parking fees, tolls, telephone and meal reimbursement. Duplication costs (photocopying) will be at a rate of ten cents per page. Costs shall not be incurred without the prior approval of the City Solicitor. Administrative support is considered part of the outside counsel's overhead and is built into the rate structure. Moreover, purely clerical or secretarial tasks should not be billed at a paralegal or attorney rate regardless of who performs them.

6. Assignment. Counsel cannot assign its rights or obligations under this Agreement without the prior written consent of the City. Counsel recognizes and agrees that this Contract is entered into in reliance upon the personal and professional skills of named Counsel, and agrees that all services to be rendered in fulfillment of this Contract shall be provided personally by Counsel or by such attorneys associated with Counsel as shall be approved by the City Solicitor. The City reserves the right to select trial counsel on its behalf in any matter in which the City is a party, which selection shall be made by the City Solicitor.

7. Counsel's fees are usually paid at the closing of the bonds or notes, and Counsel customarily does not submit any statement until the closing unless there is a substantial delay in completing the financing. In the event that the legal services described herein are provided in connection with a bond or note sale and the bond or note sale is not consummated or is completed without the delivery of Counsel's bonds or notes, the fee for services to be changed shall be based on the hourly rates as set forth in paragraph I (2) (G).

8. Confidentiality. All matters assigned to Counsel shall be handled in accordance with the usual standard of confidentiality under the Code of Professional Conduct. Counsel shall make no public comment on cases or matters in Counsel's care. Counsel shall report on the conduct, status, prospects, and recommended resolution of all matters directly and exclusively to the City Solicitor or his delegate, except as otherwise directed in writing by the Mayor, Business Administrator, City Solicitor or as required by the Code of Professional Conduct.

9. Conflict of Interest. Counsel shall not, while representing the City, file any suit on behalf of anyone against the City, nor represent anyone before the City on any of its boards or agencies.

10. Termination. The City Solicitor shall have the right to terminate this Agreement at any time in his sole discretion. In the event of said termination Counsel shall be entitled to the amount due for services rendered up to the date of termination.

11. Certification of Compliance. Counsel represents that it is in compliance with all the laws of the State of New Jersey, all Ordinances of the City of Atlantic City, including Ordinance No. 24 of 1993, Executive Order No. 1 of 1993, and Exhibit "A" attached hereto and made a part hereof, involving Affirmative Action and minority business participation and will remain so for the term of this Agreement. Failure to continue in compliance shall be deemed a breach of this Agreement.

12. Law to Govern Contract. It is agreed that this agreement shall be governed by, construed, and enforced in accordance with the laws of the State of New Jersey and the City of Atlantic City. Any dispute arises under this agreement shall be initiated in courts of Atlantic County and no other.

13. Entire Agreement. This agreement constitutes the entire agreement between the parties and any prior understanding or representation of any kind shall be binding only if in writing signed by each party or an authorized representative of each party.

14. Contract Titles. The titles to the paragraphs of this agreement are solely for the convenience of the parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this agreement.

15. Contingency. It is understood that this agreement is contingent upon the availability of funds in the City's 2017 and 2018 budgets. In the event said funds are not appropriated for this agreement, said agreement shall become null and void. The Contract Request Form is hereby approved. However, this approval does not extend to any litigation contesting actions of the State of New Jersey or any of its agencies or authorities. Prior to participating in any such actions, the prior written approval of the Director of the Division of Local Government Services shall first be obtained by the City. Additionally, please be advised that the approved vendor must comply with the City of Atlantic City's Ordinance prohibiting contributions exceeding \$300.00 from the firm or certain of its equity partners to any candidates for office in Atlantic City and to certain other campaign committees and organizations. A violation of this ordinance will result in the approval of this contract being rescinded.

16. Effect of Illegality. If any provision of this agreement is determined to be illegal or against public policy or to violate any provisions of law or code by a court of competent jurisdiction, the remainder of the agreement shall not be affected thereby. The Contract Request Form is hereby approved. However, this approval does not extend to any litigation contesting actions of the State of New Jersey or any of its agencies or authorities.

Prior to participating in any such actions, the prior written approval of the Director of the Division of Local Government Services shall first be obtained by the City. Additionally, please be advised that the approved vendor must comply with the City of Atlantic City's Ordinance prohibiting contributions exceeding \$300.00 from the firm or certain of its equity partners to any candidates for office in Atlantic City and to certain other campaign committees and organizations. A violation of this ordinance will result in the approval of this contract being rescinded.

17. Status of Consultant. It is expressly understood and agreed by and between the parties hereto that the status of the consultant and its employees, officers, and agents shall be that of independent contractors. It is not intended, nor shall it be construed, that the consultant or any of its employees, officers and agents is an employee or officer of the City for any purpose whatsoever.

18. Records and Billing. The City agrees that it will solicit the cooperation of all City officials and give access to its records so as to allow Counsel to collect such data and information as may be necessary in order to perform the services described in Par. 1 above. It is hereby agreed between the parties that subsequent to the performance of services of a nature authorized by this Contract and submission of vouchers in proper form, Bond Counsel shall be entitled to payment of their presented voucher within 30 days after it is approved by the City Solicitor.

19. Interpretation and Construction. Unless expressly provided otherwise herein, this agreement shall be governed by and construed in accordance with the Uniform Commercial Code of the State of New Jersey.

20. Effect of Illegality. If any provision of this agreement is determined to be illegal or against public policy or to violate any provisions of law or code by a court of competent jurisdiction, the remainder of the agreement shall not be affected thereby.

21. Choice of Law. This contract shall be governed and construed in accordance with the law of the State of New Jersey

22. Insurance. Without limiting the foregoing, Bond Counsel shall, at its own expense, maintain during its performance under this Agreement insurance policy or policies, written with an insurance company or in, in at least the following types and amounts:

(a) Workers Compensation Statutory

Bond Counsel shall further provide the City with certificates of Insurance stating "Errors and Omissions WITH RESPECT TO LIABILITY COVERAGES AFFORDED BY THE POLICY". Bond Counsel SHALL ALSO PROVIDE TO THE City evidence of Worker's Compensation Insurance to cover all workers involved in any work contemplated under this agreement.

23. Indemnification. Bond Counsel shall indemnify, defend and hold harmless the City from and against any claim (including any claim brought by employees of Contractor), liability, damage or expense (including attorneys' fees) that such City may incur relating to, arising out of or existing by reason of (i) Bond Counsel's performance of this Agreement or the conditions created thereby (including the use, misuse or failure of any equipment used by Bond Counsel or its subcontractors, servants or employees) or (ii) Bond Counsel's breach of this Agreement or the

inadequate or improper performance of this Agreement by Bond Counsel or its subcontractors, servants or employees.

24. **Waiver and Renunciation.** No waiver or renunciation by either party to this agreement with respect to any breach or default or of any right or remedy consequent thereon shall be deemed to constitute a continuing waiver or renunciation or a waiver or renunciation of any other breach or default or any other right or remedy consequent thereon unless such waiver or renunciation be expressed in writing, signed by the party making such waiver or renunciation and specifying the nature and extent of such waiver or renunciation.

25. **Political Contribution Disclosure.** This contract has been awarded to **PEARLMAN & MIRANDA, LLC.** based on the merits and abilities of **PEARLMAN & MIRANDA, LLC.,** to provide the goods or services as described herein. **PEARLMAN & MIRANDA, LLC.,** its subsidiaries, assigns or principals controlling in excess of 10% of the company attest that they are not in violation of New Jersey Pay to Play laws N.J.S.A. 19:44A-20.4, et seq. or Election Law Enforcement Commission N.J.S.A. 19:44A-8 or 19:44A-16 that would affect its eligibility to purchase this contract.

26. **Modification of Agreement.** Any modification of this agreement or additional obligation assumed by either party in connection with this agreement shall be binding only if in writing signed by each party or an authorized representative of each party.

Further, the City will not accept invoices representing time and expenses that were performed or incurred outside or beyond the contract end date.

Any work not specifically authorized may be rejected for payment at the discretion of the City.

IN WITNESS WHEREOF, the City has caused the Seal of the City of Atlantic City to be hereto affixed and this Agreement to be signed by the Mayor and attested by the City Clerk thereof, and Bond Counsel has caused this Agreement to be executed by its President and attested by its Secretary and its corporate seal to be hereto affixed.

ATTEST:

Paula Geletei
PAULA GELETEI, CITY CLERK

CITY OF ATLANTIC CITY

Donald A. Guardian
DONALD A. GUARDIAN, MAYOR

DATE: 5/8/17

WITNESS:

PEARLMAN & MIRANDA, LLC.,
[Signature]
by Patricia Miranda
Managing Member

The within Agreement approved as to form and execution.

Date: 5-5-17

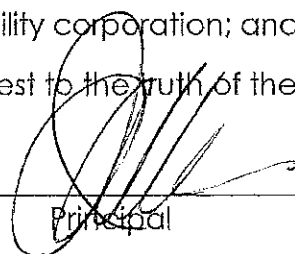
By: [Signature]
MICHAEL J. PERUGINI
Deputy CITY SOLICITOR

STATE OF NEW JERSEY)
) ss.
COUNTY OF ESSEX)

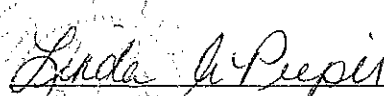
I CERTIFY that on APRIL 27, 2017, 2017, personally came before me ISABEL MIRANDA, a principal of the Limited Liability Corporation, and this person acknowledged under oath, to my satisfaction, that:

- (a) this person is a principal of PEARLMAN & MIRANDA, LLC
(the limited liability corporation named in this document);
- (b) this person has the power and authority to sign this document on behalf of the limited liability corporation;
- (c) this document was signed and delivered by the limited liability corporation as its voluntary act duly authorized by a proper action of the principals of the limited liability corporation; and
- (d) this person signed this proof to attest to the truth of these facts.

Signed and sworn to before me on


Principal

APRIL 27, 2017


Notary Public of
(Seal attached)

LINDA A. PIEPER
NOTARY PUBLIC
STATE OF NEW JERSEY
MY COMMISSION EXPIRES JUNE 18, 2018

EXHIBIT A

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

N.J.S.A. 10:5-31 et seq. (P.L. 1975, C. 127)

N.J.A.C. 17:27

GOODS, PROFESSIONAL SERVICE AND GENERAL SERVICE CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor, where applicable, will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to employ minority and women workers consistent with the applicable county employment goals established in accordance with N.J.A.C. 17:27-5.2, or a binding determination of the applicable county employment goals determined by the Division, pursuant to N.J.A.C. 17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions:

In conforming with the applicable employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

Letter of Federal Affirmative Action Plan Approval;

Certificate of Employee Information Report

Employee Information Report Form AA302 (electronically provided by the Division and distributed to the public agency through the Division's website at www.state.nj.us/treasury/contract_compliance)

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Purchase & Property, CCAU, EEO Monitoring Program as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Purchase & Property, CCAU, EEO Monitoring Program for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.

Company Name: PEARLMAN & MIRANDA LLC

Name: ISABEL MIRANDA

Title: MANAGING MEMBER

Signature: [Handwritten Signature]

Date: 4/27/17



Resolution of the City of Atlantic City

No. 250

Approved as to Form and Legality on Basis of Facts Set Forth

Factual contents certified to by

Deputy City Solicitor /s/Michael J. Perugini

Director of Revenue & Finance, Michael P. Stinson

REVISED 4/12/2017

Prepared by City Solicitor's Office

Council Member SMALL & GILLIAM presents the following Resolution:

RESOLUTION AUTHORIZING PEARLMAN & MIRANDA, LLC, AS BOND COUNSEL

WHEREAS, the City of Atlantic City from time to time requires legal services in a variety of areas for the protection and advancement of its interests, which services may best be secured under a Contract for Legal Services, and the Mayor having designated appropriate counsel for the provision of said services; and

WHEREAS, the City has advertised for and received Qualifications for Bond Counsel under a fair and open process pursuant to the provisions of N.J.S.A 19:44A-20.4; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Atlantic City and The Mayor is duly authorized to execute and the City Clerk to attest a contract to be approved as to form and execution by the City Solicitor, which contract shall provide for the purchase of legal services from **PEARLMAN & MIRANDA, LLC.**, hereafter Counsel, for a term of not to exceed one year, effective **April 15, 2017**, at the rate of:

A. For services rendered in connection with each bond sale, a fee of \$3,500, plus \$ 1.00 per thousand dollars of bonds issued for the first \$15,000.00 and \$.75 per thousand dollars of bond issued in excess of \$15,000.00 not to exceed \$55,000.00. If there is more than 1 series of bonds issued, there will be an additional charge of \$1,000 for each such additional series.

B. For services rendered in connection with the preparation or review of each bond ordinance and the compiling of a certified record of proceedings in connection therewith, a fee of \$600 for review and \$600 for preparation.

C. For services rendered in connection with each note sale, a fee equal to the hourly rates reflected in paragraph (G), with a minimum fee of \$.50 per thousand dollars of notes issued up to \$15,000,000 of notes used and \$.40 per \$1,000 of notes in excess of \$15,000,000 not to exceed \$55,000.00 If more than one series of notes are issued, there will be an additional charge of \$500 for each such additional series.

D. For services rendered in connection with arbitrage compliance and related tax analysis, a fee of \$250.

E. In the event that a letter of credit, bond insurance, or similar credit enhancement facility is used in connection with either a bond or note issue, an additional fee of \$1,000 will be charged.

F. In the event of a refunding bond issue consistent with the provisions of the Internal Revenue Code to provide for the payment of a prior issue of bonds, there will be an additional fee of \$5,000 for each refunded issue.

G. Services rendered on an hourly basis, including preparation of an application to and an appearance before the Local Finance Board, attendance at meetings, litigation, continuing disclosure undertakings and preliminary and final official statement or other offering or disclosure work, will be billed at the blended hourly rate of \$215 per hour for attorneys and \$135 per hour for legal assistant

WHEREAS, the vendor must comply with "Local Unit Pay-to-Play Law" (P.L. 2004, c.19, as amended by P.L. 2005, c. 51) and City of Atlantic Ordinance No. 11 of 2011 establishing that business entity which makes political contributions to municipal candidates and municipal and county political parties in excess of certain thresholds shall be limited in its ability to receive public contracts from the City of Atlantic City; and

WHEREAS, **PEARLMAN & MIRANDA, LLC.**, has completed and submitted a Business Entity Disclosure Certification which certifies that **PEARLMAN & MIRANDA, LLC.**, has not made any reportable contributions to a political or candidate committee in the City of Atlantic City and/or City Council in the previous one year, and that the contract will prohibit from making any reportable contributions through the term of the contract; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Atlantic City that the Mayor is hereby authorized to execute and the City Clerk to attest to an **Agreement** with **PEARLMAN & MIRANDA, LLC.**, dated April 12, 2017.

BE IT FURTHER RESOLVED, funds to be certified by Purchase Order as needed.

tc April 25, 2017 10:01 AM

DO NOT USE SPACE BELOW THIS LINE													
RECORD OF COUNCIL VOTE ON FINAL PASSAGE													
COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	MOT.	SEC.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	MOT.	SEC.
CHENG	X						MARSH	X					
DELGADO				X			RANDOLPH	X					
GILLIAM	X				X		SHABAZZ	X					
KURTZ	X						TIBBITT	X					X
							SMALL, PRESIDENT				X		
X-Indicates Vote NV-Not Voting AB-Absent MOT-Motion SEC-Second													

This is a Certified True copy of the Original Resolution on file in the City Clerk's Office.

DATE OF ADOPTION: APRIL 12, 2017

/s/ Paula Geletei, City Clerk